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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,627	07/11/2006	Jean-Marie Vau	87691 kam	7763
1333 7590 02/16/2011 EASTMAN KODAK COMPANY PATENT LEGAL STAFF 343 STATE STREET ROCHESTER, NY 14650-2201				
EXAMINER NAHAR, QAMRUN				
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2191				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/585,627

**Applicant(s)**

VAU ET AL.

**Examiner**

QAMRUN NAHAR

**Art Unit**

2191

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-942)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 11/23/2010.
2. The rejection under 35 U.S.C. 103(a) as being unpatentable over Hansson (U.S. 6,023,620) in view of Matsunami (U.S. 6,775,830), and further in view of Sun (U.S. 6,101,505) to claims 1-17 is withdrawn in view of applicant's amendment.
3. Claims 1-7, 9, 11-13 and 16 have been amended.
4. Claim 10 has been canceled.
5. Claims 1-9 and 11-17 are pending.

### **Response to Amendment**

#### **Claim Objections**

6. Claims 7 and 14 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

#### **Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-9 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansson (U.S. 6,023,620) in view of Matsunami (U.S. 6,775,830), and further in view of Wolfe (US 2005/0027846).

**Per Claim 1:**

Hansson teaches automatically sending from an applications server to the terminal digital data containing the programming agent comprised of the encoded digital data that constitute the multimedia application, based on the digital data of a message initially sent from the terminal to said applications server (“...Referring now to FIG. 1, there is illustrated an apparatus for remotely downloading software into a cellular telephone. An update server processor 100 communicates with a cellular telephone network 120 which in turn provides wireless communication to a cellular telephone 110. ...” in column 2, lines 7-10); automatically extracting the multimedia application from the digital data sent to the terminal; executing the multimedia application at the terminal (“...The update server processor 100 contains the new version of the software and controls the process for downloading the new software into the cellular telephone 110. ... When a new version of the software is available, the update server processor 100 transmits a message via the cellular telephone network 120 to the cellular telephone 110 offering the option to download the new version of the software. ...” in column 2, lines 10-15 and lines 40-45). Hansson does not explicitly teach automatically deactivating and deleting the programming agent and the multimedia application from said terminal.

However, Matsunami teaches automatically deactivating and deleting the programming agent from said terminal (“... deleting the installer program and the install files from the shared

LU after completion of the install work ..." in column 11, lines 30-32; Automatically deleting includes automatically deactivation of the installer program.).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the process disclosed by Hansson to include automatically deactivating and deleting the programming agent from said terminal using the teaching of Matsunami. The modification would be obvious because one of ordinary skill in the art would be motivated to efficiently install a program in a computer system (Matsunami, column 2, lines 15-19).

However, Wolfe teaches automatically deactivating and deleting the multimedia application from said terminal ("... In embodiments of the present invention, once the program has been exited and/or use otherwise terminated, the program may be automatically deleted and/or un-installed, and the program license may be available to others if requested via offer interface located on other machines. ..." in par. 0060).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the process disclosed by Hansson to include automatically deactivating and deleting the multimedia application from said terminal using the teaching of Wolfe. The modification would be obvious because one of ordinary skill in the art would be motivated to know whether the software has already been installed or uninstalled (Wolfe, par. 0009 and par. 0010).

**Per Claim 2:**

Hansson further teaches characterized in that the digital data containing the programming agent is a multimedia message of MMS type capable of containing image, text, sound and an application program (column 2, lines 56-60).

**Per Claim 3:**

Hansson further teaches characterized in that the message initially sent from the terminal is an SMS type text message (column 4, lines 16-26).

**Per Claim 4:**

Hansson further teaches further comprising a step of automatically displaying the programming agent at the terminal in an identified format, such as alphanumeric, or such as an icon (column 3, lines 25-40).

**Per Claim 5:**

Hansson further teaches characterized in that the programming agent is an encoded application program (column 4, lines 27-31).

**Per Claim 6:**

Hansson further teaches characterized in that a payment request for sending the digital data containing the programming agent to the terminal is performed automatically, before the step of automatically sending, said payment request being integrated into an automatic payment procedure (column 4, lines 16-26).

**Per Claim 7:**

Hansson further teaches further comprising activating the programming agent to automatically execute the multimedia application corresponding with the encoded digital data (column 2, lines 41-55).

**Per Claim 8:**

Hansson further teaches characterized in that the activation of the programming agent performs an automatic formatting (column 2, lines 7-15).

**Per Claim 9:**

Hansson further teaches further comprising, after the step of executing the multimedia application, the terminal sending the digital data containing the programming agent to at least a second terminal (column 2, lines 8-15).

**Per Claim 11:**

Matsunami further teaches further comprising storing the programming agent and the multimedia application on the terminal for a preset period, and automatically destroying the programming agent and the multimedia application at an end of the preset period (column 8, lines 18-40; column 9, lines 5-8 and column 11, lines 30-32).

**Per Claim 12:**

Matsunami further teaches characterized in that the preset period is included in the digital data containing the programming agent (column 11, lines 30-32).

**Per Claim 13:**

Matsunami further teaches characterized in that the programming agent and the multimedia application are automatically destroyed after a preset number of activations of the programming agent (column 9, line 66 to column 10, line 17).

**Per Claim 14:**

Hansson further teaches characterized in that a request for executing imaging work is sent from the terminal to a platform for executing imaging work capable of communicating with the terminal (column 2, lines 7-15).

**Per Claim 15:**

Hansson further teaches characterized in that the platform for executing photographic work is a photographic laboratory or kiosk (column 3, lines 60-65).

**Per Claim 16:**

Hansson further teaches wherein the programming agent automatically displays, on a screen of the terminal, user interface elements adapted to the platform for executing photographic work, or an online service (column 3, lines 35-39).



**Per Claim 17:**

Hansson further teaches characterized in that the terminal is a mobile terminal (column 4, lines 9-10).

**Response to Arguments**

9. Applicant's arguments with respect to claims 1-9 and 11-17 have been considered but are moot in view of the new ground(s) of rejection.

In the remarks, the applicant argues that:

a) Matsunami discloses, in a computer system, a method for efficiently installing a program in a plurality of computers, in order to reduce the operating cost for the maintenance and the management of the system (see, in Matsunami: column 2, lines 15-18). Matsunami does not address the problem of a device, such as a terminal, having a reduced memory capacity.

Therefore, Matsunami does not contemplate or incite that only one application program should be stored at the same time into the terminal to avoid blocking a memory in the terminal.

Matsunami teaches only that the installer program and install files are deleted, not the installed programs themselves.

*Examiner's response:*

a) Matsunami teaches automatically deactivating and deleting the programming agent from said terminal ("... deleting the installer program and the install files from the shared LU after completion of the install work ..." in column 11, lines 30-32).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., reduced memory capacity) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In the remarks, the applicant argues that:

b) The process defined in amended claim 1 of the present application solves the problem, unrecognized in Hansson or Matsunami, of deleting overloaded and memory consuming executable application programs that reduce memory space of a terminal. The claimed solution to this problem is to have a single application stored and activated on the terminal which is then automatically destroyed when deactivated after its use (see, in the present application: page 8, lines 14-16).

*Examiner's response:*

b) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., single application stored) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In the remarks, the applicant argues that:

c) These teachings do not incite the skilled person to arrive at the process defined in amended claim 1 of the present application, wherein only one application program is stored at the same time as the programming agent into the terminal, and wherein the programming agent and the application program, after deactivation following its use, is automatically deleted. The information of column 11, lines 29-32, in Matsunami, teaching that an illegal or erroneous install work can be prevented by deleting the installer program and the install files from the shared logical unit does not mean that any install agent 32 is automatically destroyed after its deactivation in any case, since it only concerns the illegal or erroneous install works. Therefore, this teaching is not relevant to arrive at the claimed solution, since this deletion only concerns the case of an illegal or erroneous install work.

*Examiner's response:*

c) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., only one program is stored at a time) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Matsunami teaches automatically deactivating and deleting the programming agent from said terminal ("... deleting the installer program and the install files from the shared LU after completion of the install work ..." in column 11, lines 30-32). Automatically deleting includes automatically deactivation of the installer program.

### **Conclusion**

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y Zhen, can be reached on (571) 272-3708. The fax phone number for the organization where this application or processing is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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